

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PETER MASTRION and SHELLEY) 2:10-cv-00662-HDM-RJJ
MASTRION,)
)
Plaintiffs,)
)
vs.) ORDER
)
BLUE MARTINI LAS VEGAS, LLC, a)
Nevada Limited Liability Company,)
d/b/a BLUE MARTINI;)
TURNBERRY/CENTRA SUB, LLC, a)
Foreign limited liability)
Company, d/b/a TOWN SQUARE LAS)
VEGAS; JOHN ENCINIO; JAVIER)
AGOSTO; TRAVIS ARMSTRONG; SETH)
GORDON; VALOR SECURITY SERVICES,)
INC., a dba of MYDATT SERVICES,)
INC.; ROE SECURITY OFFICERS I-V,)
individually; and POE BUSINESS)
ENTITIES I-V, inclusive,)
)
Defendants.)

Defendants Blue Martini Las Vegas, LLC, and Turnberry/Centra
Sub, LLC, have filed a motion to dismiss pursuant to Federal Rule

1 of Civil Procedure 12(b)(1). (Docket # 55) Defendants argue that
2 plaintiffs' first amended complaint (Docket # 42) does not allege
3 any federal claims sufficient for this court to exercise
4 jurisdiction and this action should be dismissed for lack of
5 subject matter jurisdiction.

6 Federal district courts "have original jurisdiction of all
7 civil actions arising under the Constitution, laws, or treaties of
8 the United States." See 28 U.S.C. § 1331. "[I]n any civil action
9 of which district courts have original jurisdiction, the district
10 courts ... have supplemental jurisdiction over all other [related]
11 claims." See 28 U.S.C. § 1367(a). According to 28 U.S.C.
12 1367(c)(3), a district court "may decline to exercise supplemental
13 jurisdiction over a claim ... if ... [it] has dismissed all claims
14 over which it has original jurisdiction."

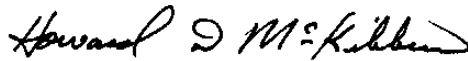
15 When this case was filed, the court had original jurisdiction
16 over plaintiffs' Section 1983 claims against defendant LVMPD and
17 supplemental jurisdiction over plaintiffs' state law claims against
18 the other defendants. The basis for original jurisdiction was
19 removed when defendant LVMPD and plaintiffs' Section 1983 claims
20 were dismissed on February 24, 2011 (Docket # 40, 41) and when
21 plaintiffs amended their complaint and removed their Section 1983
22 cause of action against LVMPD (Docket # 42).

23 The court finds that the parties will not suffer undue
24 prejudice if this case is remanded to state court because the
25 amended complaint was filed on March 1, 2011, discovery will not
26 close until June 3, 2011, and no trial date has been set by the
27 court. Accordingly, the court declines to exercise supplemental
28 jurisdiction over plaintiffs' state law claims. See 28 U.S.C. §

1 1367(c); *Osborn v. Haley*, 549 U.S. 225, 245 (2007); *Arbaugh v. Y &*
2 *H Corp.*, 546 U.S. 500, 514 (2006). Therefore, defendants' motion
3 to dismiss (Docket # 55) is hereby GRANTED and this action is
4 DISMISSED without prejudice to be re-filed in the appropriate state
5 court.

6 **IT IS SO ORDERED.**

7 DATED: This 13th day of May, 2011.

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9 UNITED STATES DISTRICT JUDGE
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